CRAID DECESS OF MARCAND

Minority Report of Paul Bernan, Merben of Grand Inquest Committee,

Submitted March 30, 1989.

I sincerely segret the necessity of having to file an individual report giving my our thoughts as to the westlt of the investigation of the affairs of the Maryland State Roads Specific by the Joint Grand Inquest Committee of the General Assembly of Maryland.

Engs we began the investigation, it was my hope that it would be full and complete and the Countains would be mentioned in its findings. I waited until the tentative report resourced by the Counsel to the Countities was submitted and the froughly discounted before desiring that a minority report should be filed. I spoke to the Binarity Pleas Lander in regard to this and he submitted to me a report prepared by him and countries in by two other Republican Manhers of the Countities.

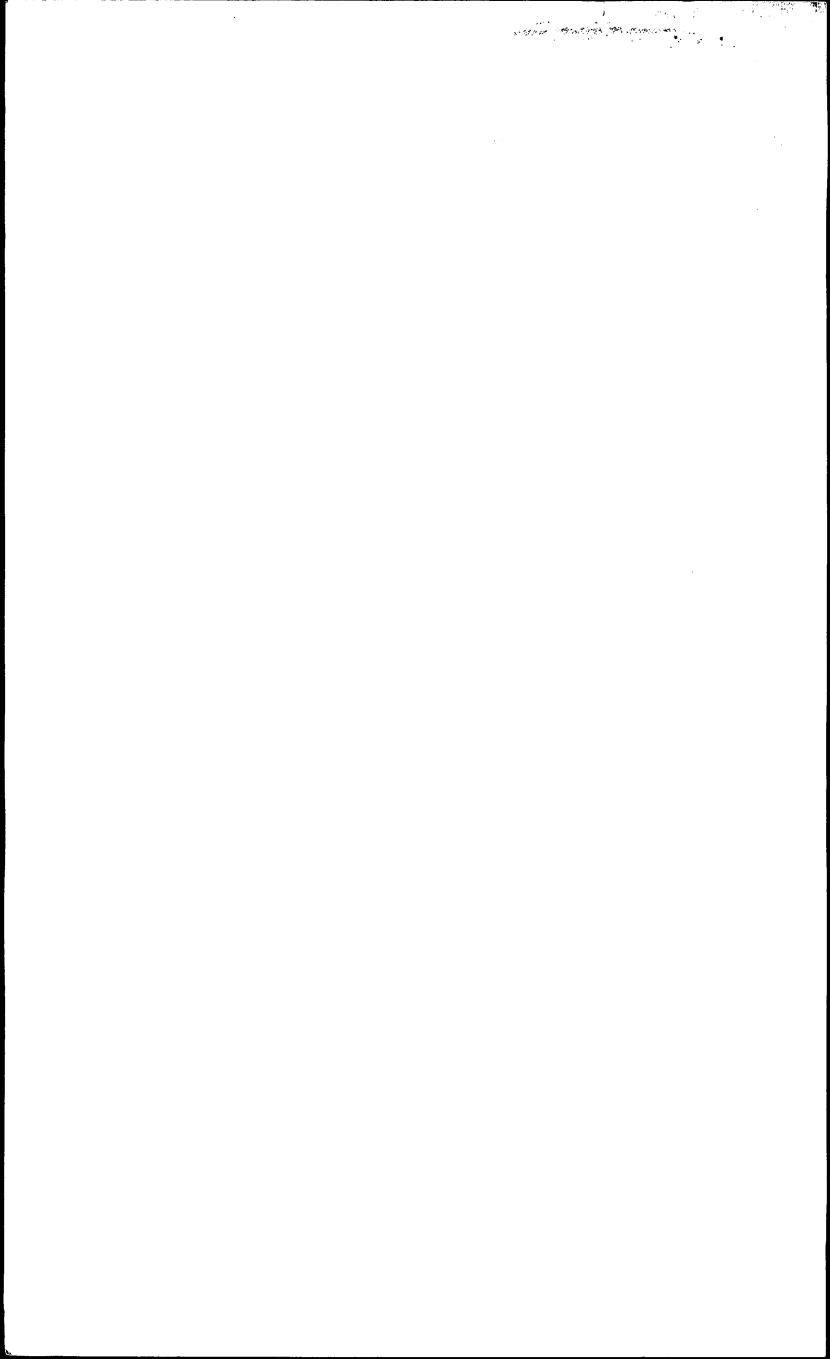
After enrefully examining this report I came to the conclusion that I could not sign same and adopt it as my findings on the facts submitted before the Committee. While fully enamering in a great many of the findings of the minority report, I ontifully disperse with those in regard to the proof of the charges made against Senator Mitchell.

In my spinion the findings of the majority of the committee in regard to Senator Mitchell is a fair and correct consistsion and I fully concer in that part of the majority reports

Section discussing the majority report in detail. I think it proper to first consider the manner is noted the broastigation are senducined. The Senatel Assembly consider the manner is noted to broastigation of the State Breaks Consideration of

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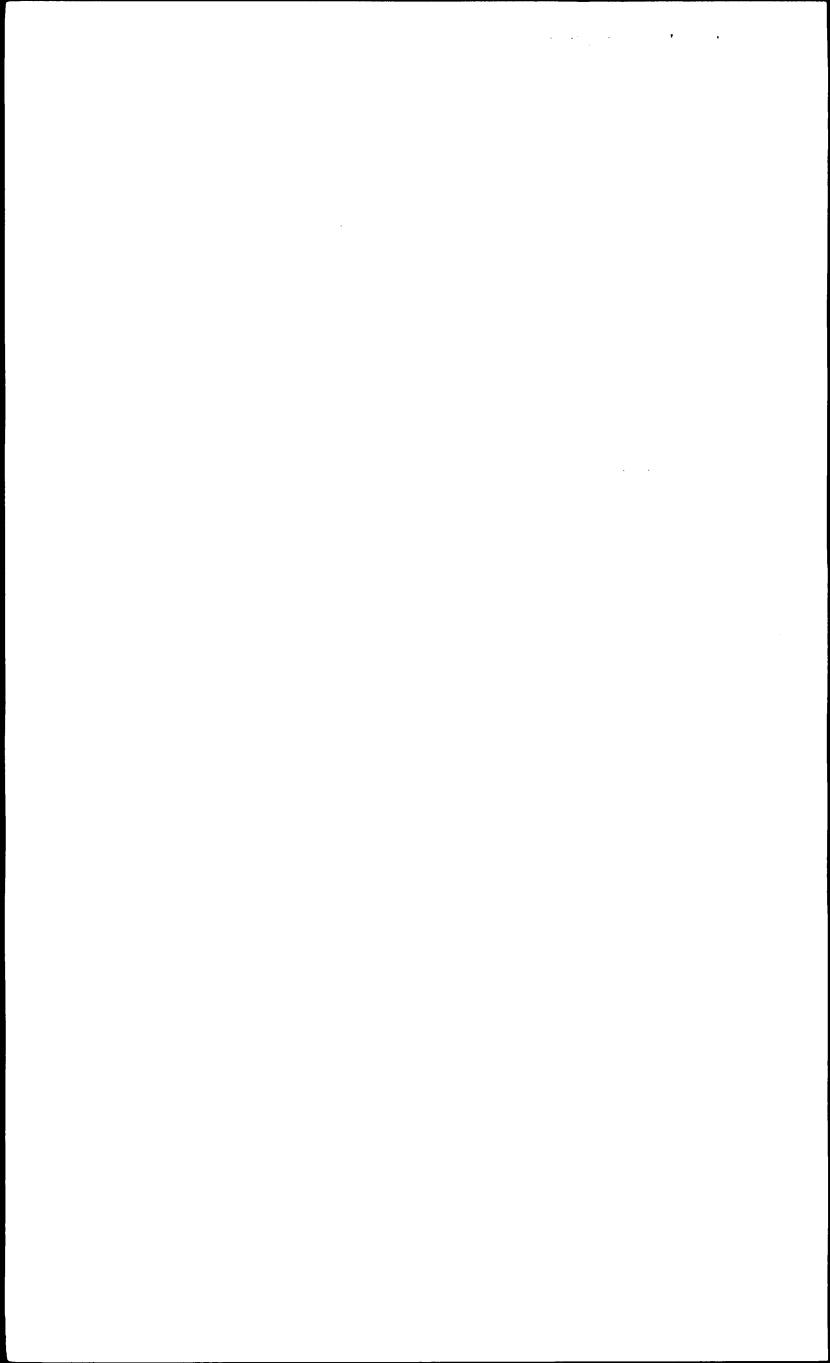
Among the present contained in the resolution was one giving the committee the authority to continue the investigation of the State Read's affairs after the session of the Legislature, if it sight not be fully and empletely emoluted before the session was ever. This resolution was adopted unanimously and subsequently at the mast meeting of the consistee the aution adopting the resolution was reconsidered and an motion made that part of the resolution which gave the consistee the right to all after the adjournment of the Legislature, was stricked out for "psychological" reasons with the understanding that if the investigation was not full and complete before the session was at an and, the General Assembly of Maryland would be requested to give the Committee authority to sit and conduct its investigation during the recess.

No one will seriously contend that the investigation was full or complete and although the suggestion was made that the Committee be given authority to sit after the transfer that the investigation might be substantially full and complete, this motion was voted down by the Committee.

ed, I shall merely resite an instance where Commel for the Committee, during the discussions of their report, admitted they should have additional testimony. This instance was then the Committee discussed the advisability of inserting in the report the testimony of Mr. Carrell relative to Mr. Dawson, (the Commission's Auditor), suggestion that it would not be necessary to go into the vouchers because he had they engited them. The sourcel and some members of the committee did not think it fair to insert this in the report because Mr. Dawson was not given an epportunity to dany this statement. I suggested that Mr. Dawson be called before the committee again and either dany or explain its which suggestion was voted form.

Another instance of the incompleteness of the investigation was the fact that the Committee Socided to hear the testimony of a Mr. Charles L. Ewers, one of the employees of the State Roads Commission, who was indicted for steeling from the State Roads Commission, who was indicted for steeling from the State Roads Commission and subsequently pleaded guilty to the charge.

At the time Mr. Emers appeared before the committee he refused to testify on advice of comment, because he had not been sen aged at that time, but declared his willinguage to testify after his sentence. Mr. Exers was sentenced to three and a labor



years confinement on March 25th, and I suggested to the Committee that Mr. Evers be recalled before the Committee to testify; this motion was voted down because of lack of time to hear him.

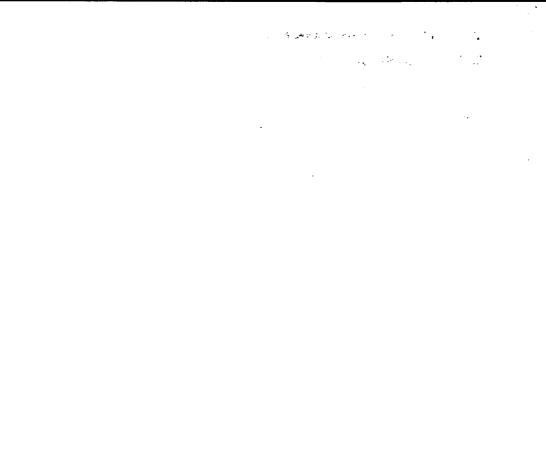
There were other witnesses requested to be brought before the committee by Mr. William Purnell Hell, and I think the committee should have momented these witnesses, if for no other reason them to emstain the epinion of the committee, that they could not throw any light upon the investigation. On the whole it was apparent, after the investigation got well under may, that the committee did not intend to fully pursue the inquiries, but merely scretch the surface and leave a good deal of the inquiry with other agencies investigating the affairs of the State Reads Commission.

This procedure may have been proper, but it was certainly contrary to the expressed purpose of Joint Resolution #2, which provided that it is in the intention of the General Assembly of Maryland to conduct a full and complete investigation of the affairs of the State Roads Commission.

In order to make this report as brief as possible I will comment on some of the findings of the sajority of the committee, and my findings as I go along.

The majority of the committee find that the system foiled for two reasons; first, because of the dishonest combination of a number of the employees and second, because of failure of the suditors to properly discharge their duty. I cannot agree that there are only two reasons for the failure of the system. There are a number of other reasons for the failure, which were brought out by the testimony submitted to us. To sit: The authorization of subordinates in the office to issue and sign centre for supplies furnished the commission. This should have been handled through the Comptrollar's Office, as a number of other State Departments are handled. Checks should not have been issued on venchers prepared on forms provided by the State Roads Commission, but should have been issued only on original vouchers furnished by association.

It strikes we as peculiar that the injority's report in reference to the failure to properly sudit, makes no comment what lever on the testimony of Carroll in connection with Danson's attempting to persons him not to examine the inside of the vouchers. I respected the Committee to amount on this, but they say fit he only



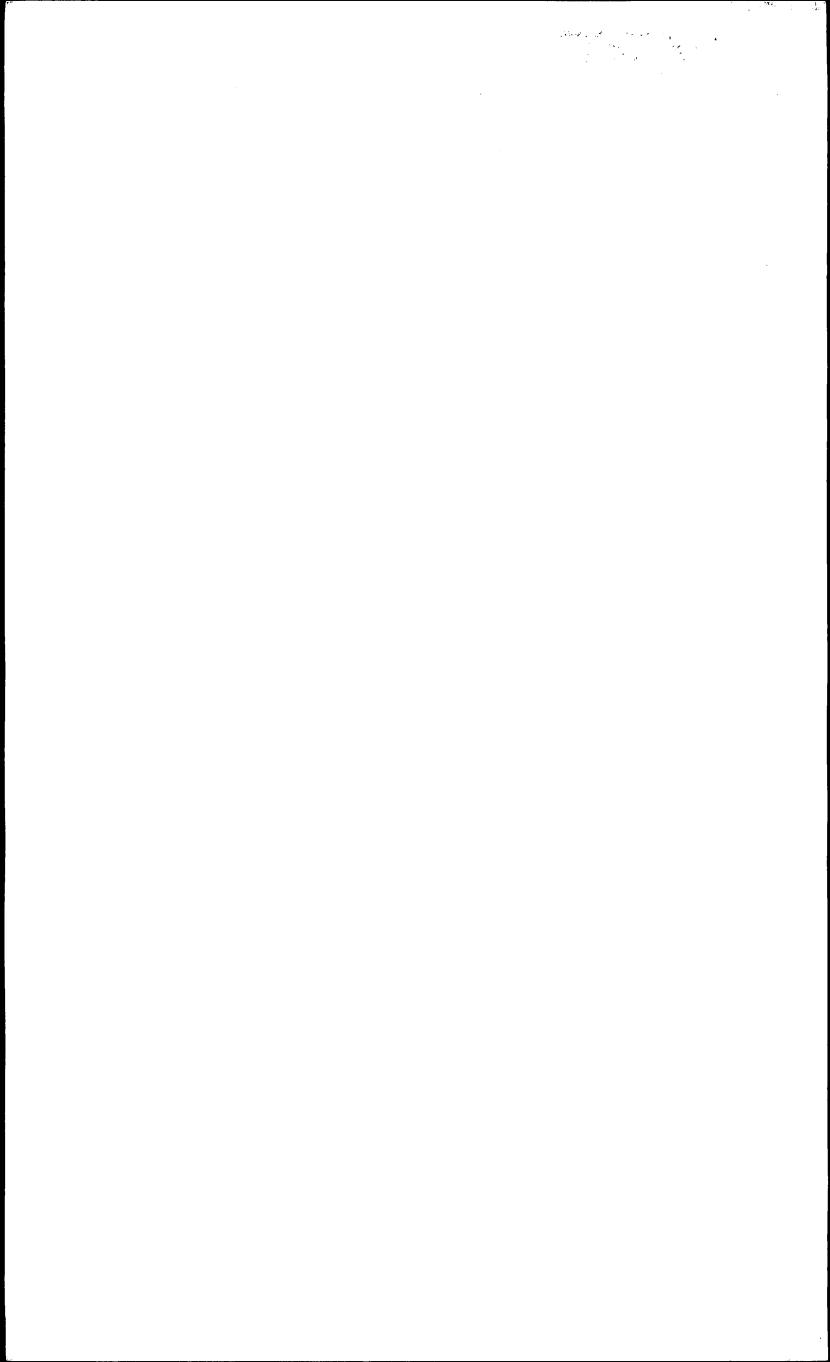
put in the report that Carroll testified after Dawson. The Committee spent nearly two pages of the report in discussing Butlar's testimony in an attempt to discredit it. Why they did not attempt to smallyne this statement of Carroll's is beyond me. To my mind it was one of the most important pieces of testimony developed by the Committee. If Carroll, the State Auditor, had taken Dawson's suggestion and not exemined the in-aide of the vouchers, it is possible and probable that the thefts from the State Roads Commission would not now be discovered and if ever discovered, would have smounted to a staggaring som.

I should like to call particular attention to the following statement contained in the majority report, in order that the general public might realize just how dangerous a precedent is being set up by the adoption of this part of their report. It is taken from page 11, of the majority report:

"It has been suggested or sharged that such extensive and long dishonesty on the part of so many of the employees of the Commission, could not have existed without the fault of the Commission itself, or its Chairman. The suggestion has been made in this commission that an individual would not have been defreuded over such length of time, and of such smounts, without sooner becoming aware of it.

We think such a charge is radically unjust both to the Chairman and to the other Member of the Commission. They relied and were entitled to rely, so long as no facts were brought to their attention which aroused their suspicions, muon the suditing of the accounts by the efficials who were charged with that duty; that is to say, in the first instance, and primarily, by the office auditor; and also as so have said by the State Auditing Department."

If the majority of the Committee is serious in this finding, each Executive of a State Department, is relieved from the messessity of giving my attention to details in regard to the management of his office, and in the event of a shortage in any of the State Departments, it will only be necessary for the State official, when the shortage may occur, to point to page 11, of the report of the Grand Inquest Committee of Maryland for complete exponentian of failure to perform his duty. While we are on this particular subject I must to call attention to the fact that the Chairman of the State Reads Commission, knew and permitted the sufficer in his department to do outside work, elthough he testified that the outside work was done after hours. HEX



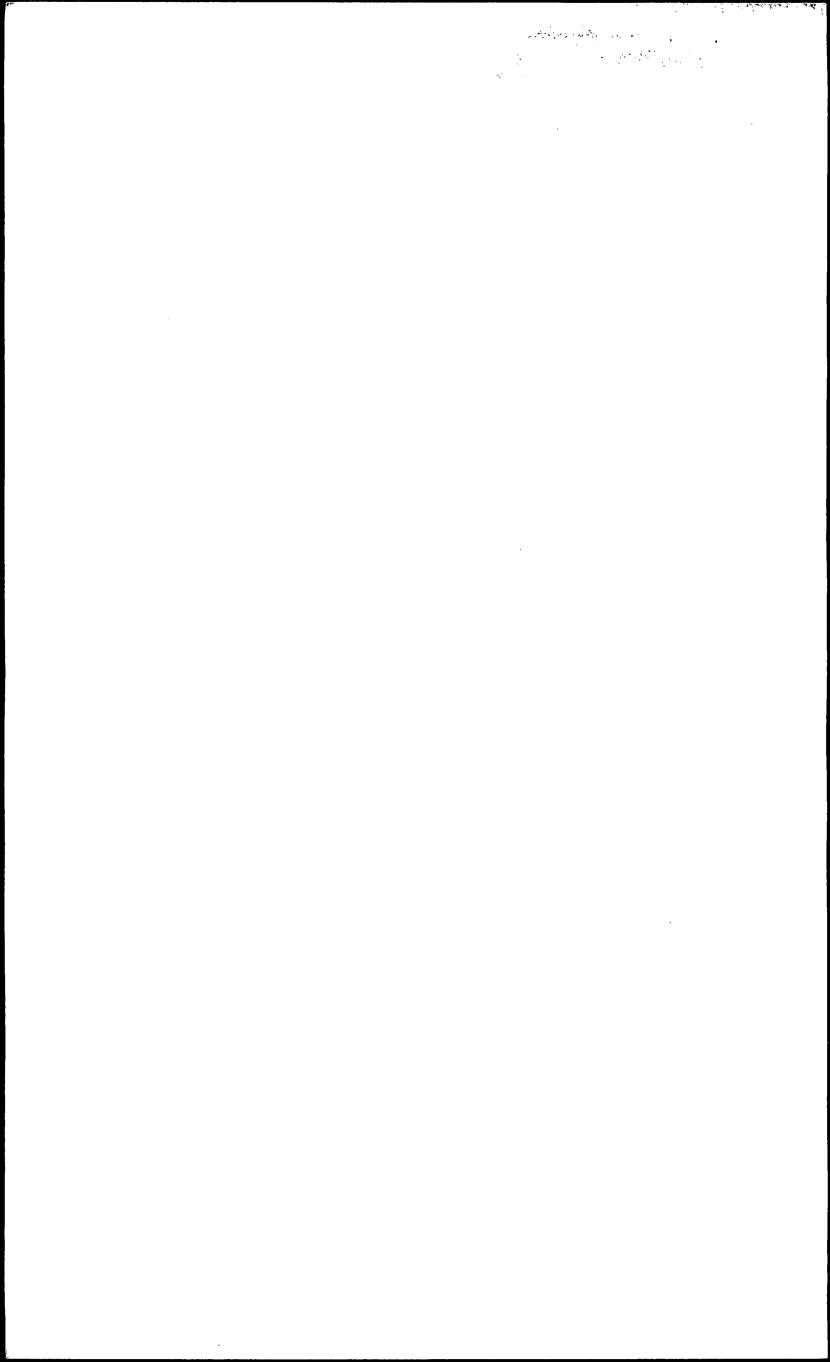
notice to give any attention whatever to any extends work. It merely goes to rove the old adage that "s man cannot properly serve two masters".

I criticise the Chairman of the State Rouds Commission for not knowing his abordinates better. In eight years he cortainly had ample time to loarn something of their parsonal habits. The testimony showed that he did know Butler (one of the ring leaders in the steelings) was dealing with a bookmaker, a fact which should have put an ordinarily prodest executive on his guard. As pointed out by the majority report, the heavy duties of Mr. Mackall made it difficult for him to faithfully discharge his engineering duties and obligations and at the same time maintain intimate contact with the administrative details of the Commission's affairs. In this I concur-

The combining of the differs of the Chairman of the State Roads Commission and Chief Ingineer was a serious mistaks. This mistake was made by the Chief Executive of the State of Maryland. If he had given proper attention to his duties as Covernor, it would have been quickly discovered. The combining of offices was an experiment and he should have given particular attention to see that it was working out properly. Six months after this experiment, if he had investigated, he could have found out that the burden was too heavy for any one man and the two offices have found out that the burden was too heavy for any one man and the two offices could have been separated. Shy this experiment was not properly watched, I do not know. This is for the public to judge.

Mr. Mackell tried to carry out his duties in both offices and it would not be fair to place all of the responsibilities on his shoulders, in fact, in my opinion, very lit the of the responsibility for the thofts can be traced to him directly. From the swidence produced before us, I sincerely believe John Mackell directly. From the swidence produced before us, I sincerely believe John Mackell to be an homest man and absolutely had no part, nor was he cognizent of any of the steelings going on in his office.

The Committee has taken great pains in pointing to procedent to justify the illegal amerding of contracts under Mr. Mankell's administration. It could just as well have cited the procedent of stealings in the State Roads Commiscould just as well have cited the procedent of stealings in the State Roads Commiscould just as well have cited the procedent of stealings in order to justify stealings after sion's Office, before Mr. Mackell was Chairman, in order to justify stealings were he became Chairman. Ido not mean to convey the impression that the stealings were



ever estempted to be justified by the Committee, but they have attempted to justify the lask of supervision of the State Roads Commissioners. From Mr. Mackall's testiment, we learn that the man who held the position as State Auditor before Mr. Mackall was made Chairman, stole supersimately \$2,500 of the money of the State Roads Commission. There is still the from this man to the State Roads Commission. There is still the from this man to the State Roads Commission the sum of \$1,500, being some of the manay he stole, which is carried on the books of the State Roads Commission as accounts receivable.

If the Governor had given the proper attention to this Department, he could have realized from this former steeling, that while the office of Chairman of State Roads Commission and Chief Engineer was separate thefts were possible; how much more possible thafts would become by shouldering additional burdens on the Chairman of State Reads Commission in readily recognisable by snythinking person.

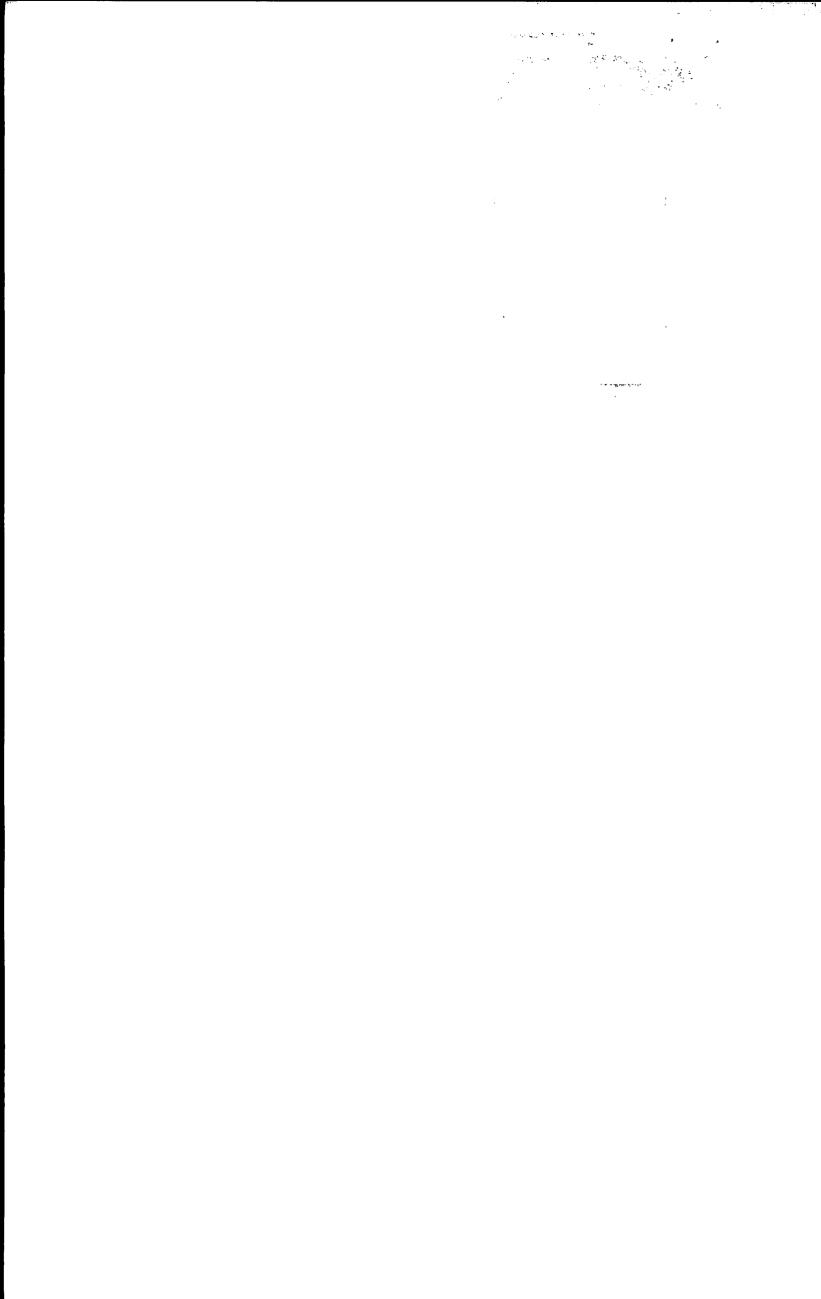
The pharges equinst Mr. Machail for top-soil, theremeature and other items are so trifling and insignificant, that they do not describ equant, except to point out if John Maskall mentod to steal he had apportunition to steal thousands and no somible person would believe that he would shoop to stealing trifles.

I will adopt the comment of the majority of the Committee in reference to the Southern Maryland Society temmentions. As to the road selebration and purchase of silver, I think the Committee should have inserted in their report the smeart of loss sections by reason of the fact that the silver purchased for the Crain Highway opening collabration, was not used. From my recollection, this sum was approximately 8700, and I think the public in this report should have known it. This loss should never have been sustained by the State of Maryland.

In regard to contracts let by the Commission, there was some evidence of favorities. Mr. Mackell should not be made to stand the whole brunt of this criticism. I think the other members of the Commission were equally guilty.

From what I could see, the office of the State Roads Commission was used by the Administration for the purpose of playing politics and no matter how upright and homest public officials may be, they are always subject to pressure from political bandman, and the favorities shown in awarding of contracts resulted from this pressure.

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I cannot agree with the majority report that movely because other administrations illegally let contracts, that this was any reason for the State Roads Commission to follow the illegal processor. In this first place, there was no proper evidence before the Commistee as to what the practice of other Commissions were, in regard to extensions, over-wors and extra work, therefore, the comparison is not justified.

I will not further comment on the letting of contracts, as I think this is fully covered in the other two minerity reports filed, and in most of the comments I fully concern.

I also concur in Mr. Joseph's findings in regard to the investigation of surplus wer material and cannot help but feel that a good deal of information could have been uncovered. If a proper investigation of this phase of the matter had been made.

From the evidence before us, Er. Mackall was an exceedingly good Roads Engineer and at the mass time a very pour effice executive.

resignation; from the evidence produced before us, there cortainly was no justifiestion for this action. He undembtedly should have been relieved of the duties of Chairmon of the State Roofs Commission.

CONCLUSION.

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It might be true, as stated in the majority report, that mothing of importance which has been brought to the attention of the Committee was emitted from the majority report, but it is also a fact that very little of the symilable evidence in regard to the affairs of the State Roads Commission was brought to our attention, or sought by the Committee.

The General Assembly was extremely and exceedingly anxious to have a full and complete investigation, when the Session began, but their enthusiasm cooled greatly as it progressed, and on Thursday, March 28th 1929, when the reports prepared by the Counsel was discussed, it was prestically zero, if not below.



The investigation should either have been full and complete, as contemplated by Joint Resolution No. 2, or should never have been started. The result of the shole investigation was nothing but a waste of approximately Teenty-tive thousand college of the tex payers manay and nothing was uncovered that was not already known by the public.

I want to take this exportunity to congratulate the counsel for their extreme putience and the attention which they gave the matters which were permitted by the Consistee to be brought out.

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Respectfully submitted (Signed) Paul Barnan.

